

REMARKS

Status of Claims

Claims 1 and 4 have been rejected under 35 USC102(a) for lack of novelty over Huusko.

Claim 2 has been rejected under 35 USC(103)(a) for obviousness over Huusko in view of Vialen.

Claim 3 has been rejected under 35 USC103(a) over Huusko in view of Berruto.

Claim 5 has been rejected under 35 USC103(a) over Huusko in view of Vialen in view of Berruto.

Claim 1

Claim 1 has been amended by combination with claim 2 and to clarify an error in line 2. As regards line 2 of amended claim 1, the core networks have differing functionality, see page 7 lines 3 to 11, page 8 lines 1 to 4, and page 9 lines 1 to 3. It is respectfully submitted that amended claim 1, which basically corresponds to previous claim 2, is patentable.

The Examiner's rejection of previous claim 2 is incorrect for the following reasons:

(1) Firstly, the adaptation layer software of Vialen disclosed in its col.2 line 54 to col.3 line 62 cited by the Examiner is taught as essentially residing at the mobile station. In this regard, see col. 2 lines 58 to 60 which states "The objects of the present invention are achieved by providing the mobile station with an adaptation layer located on top of the LLC and RRC layers" (emphasis added). See also column 8 lines 38 to 39 which states "By means of the invention, it is easy to realise a multimode mobile station" (emphasis added).

(2) Secondly, as taught by Vialen should an Initial Radio Bearer be initiated by the network (rather than the mobile station), see Vialen col.5 lines 37 to 49, this is done "in a known fashion, without a need for the operation of a UAL according to the invention". (UAL stands for UMTS Adaptation Layer, see col. 4 line 23). Accordingly, Vialen teaches away from use of an adaptation layer at the network.

Accordingly, the teaching of Vialen regarding adaptation layers could not be combined with that of Huusko by the person of ordinary skill in the art so as to provide the present invention according to claim 1. This is, in particular, because claim 1 relates to a novel packet switched network architecture, rather than a novel mobile station.

The person of ordinary skill but lacking inventive capacity could not apply the teaching of Vialen to that of Huusko so as to provide the present invention. If such a person attempted that combination the result would likely include a conventional network, and a mobile station having an adaptation layer.

(3) Thirdly, in any case, the adaptation layer disclosed in Vialen does not appear to disclose switching packet transmissions between core networks dependent on the capacity of those networks. Rather, the most relevant portion of the cited passage, appears to be column 3 lines 54 to 59 which states:

The adaptation layer may receive from the radio access network such additional information which is not directly available for the second-generation higher protocol layers, but which for example prevents the mobile station from requesting a connection that is for capacity reasons not possible in the present cell.

There is no mention here, or apparently elsewhere in Vialen, of switching between networks dependent upon capacity of those networks.

As the Examiner indicated, the other cited document, Huusko, does not disclose switching based upon capacity of the two networks.

Accordingly, it is respectfully submitted that amended claim 1, which requires the radio access network switching between the core networks based on the capacity of those core networks, meets the standard of 35 USC(103(a) and so is patentable.

Claim 2

Claim 2 is canceled.

Claim 3

Claim 3 is patentable not least on the basis that it depends on an allowable amended claim 1.

Claim 4

Claim 4 has been amended to become a method claim corresponding to amended apparatus claim 1.

Claim 4 is patentable on the basis that it is distinguished over Huusko by at least the feature “switching, by the radio access network, packet transmissions from a mobile user in the location area to one of the core networks in dependence on the capacity of the networks”.

Claim 4 is patentable over the other cited art. In particular, claim 4 is patentable over Huusko in view of Vialen for the reasons laid out above in respect of amended claim 1.

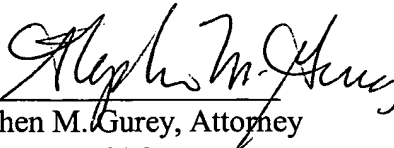
Claim 5

The dependency of claim 5 has been updated. Claim 5 is patentable not least on the basis that it depends on an allowable independent claim 1.

In view of the foregoing, allowance of all the claims presently in the application is respectfully requested, as is passage to issuance of the application. If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact Applicants' attorney, **Jimmy Goo**, at **973 386 6377**.

Respectfully submitted,

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